

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

APR 22 1994

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )

)  
Amendment of the Commission's  
Rules to Establish New Personal  
Communications Services )

GEN Docket No. 90-314

COMMENTS OF UTAM, INC.

UTAM, Inc.,<sup>1</sup> hereby offers its comments on an important issue arising from various presentations at the PCS Task Force hearings of April 11-12, 1994.<sup>2</sup> As detailed below, those hearings produced a broad consensus that microwave relocation tasks will be the principal obstacle to timely availability of licensed and unlicensed PCS services and products. UTAM believes that one step to facilitate the financing and clearing of the spectrum allocated for PCS is the adoption of a simple mechanism to ensure cost sharing between licensed and unlicensed PCS interests for mutually beneficial relocation activities. This action will greatly aid both the licensed and unlicensed PCS industries in deploying exciting new offerings to the American people.

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<sup>1</sup> UTAM is the conditionally designated frequency coordinator for the unlicensed PCS spectrum. Amendment of the Commission's Rules to Establish Personal Communications Services, 8 FCC Rcd 7700, 7738 (1993). UTAM is authorized to state that it has presented the proposal described herein to the Personal Communications Industry Association, which is interested in the concept but has not yet adopted a final position on it.

<sup>2</sup> See FCC News Release, Mimeo No. 42480 (April 4, 1994).

**I. THE PCS TASK FORCE HEARINGS HIGHLIGHT THE  
NEED TO IMPROVE AND EXPEDITE THE RELOCATION  
PROCESS FOR INCUMBENT 2 GHz MICROWAVE LICENSEES**

Witnesses testifying at the PCS Task Force hearings repeatedly underscored the central importance of the timely and efficient relocation of incumbent microwave facilities for the deployment of new licensed and unlicensed PCS services and products.<sup>3</sup> All witnesses agreed that the obligation of new PCS providers to protect microwave links from interference is a heavy burden that can complicate and delay the advent of important telecommunications capabilities for American consumers. Indeed, the evidence received at the hearings shows that microwave relocation is a unifying and overarching concern for licensed and unlicensed PCS.

The witnesses also reinforced the simple fact of life that microwave relocation problems are not limited to co-channel interference considerations.<sup>4</sup> Instead, 2 GHz microwave facilities often have receivers that cover as much as 18 MHz of bandwidth. As a result, they are vulnerable to interference from adjacent channel as well as co-channel PCS operations.

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<sup>3</sup> E.g., Statement of John Battin, Transcript of PCS Task Force Hearings, at 33-34 (Apr. 12, 1994); Statement of Jeff Rosenblatt, Transcript of PCS Task Force Hearings, at 61-62.

<sup>4</sup> Statement of Jeff Rosenblatt, Transcript of the PCS Task Force Hearings on PCS, at 63-64, 78-79 (Apr. 12, 1994).

The hearing testimony further noted that PCS spectrum allocations and service areas do not correspond to the 2 GHz microwave allocations and service areas.<sup>5</sup> Consequently, microwave links cross PCS market boundaries; microwave links cross frequency boundaries; microwave links in adjacent channels can receive interference; the two ends of a single microwave link may be in both the licensed and unlicensed PCS spectrum allocations; and a microwave licensee's system may consist of multiple links crossing the entire country.

UTAM and PCS licensees will be relocating links to prevent co-channel and adjacent channel interference to their respective unlicensed and licensed PCS interests. A large number of the microwave link relocations will benefit both licensed and unlicensed PCS interests. However, under the current rules, there is no assurance that the party first moving the link will ever receive a contribution to the relocation costs from the other industry beneficiary. There simply is no system in place to facilitate and enforce the sharing of these substantial expenses.

The Commission, however, can facilitate mutually beneficial sharing of relocation costs through the simple step of allowing the entity paying the relocation costs to acquire the microwave link license and requiring that any licensed or unlicensed PCS interest seeking to operate on the cleared frequencies must contribute its fair share of the costs incurred by the party who paid for the relocation. This could

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<sup>5</sup> Statement of Jeff Rosenblatt, Transcript of PCS Task Force Hearings, at 63-64 (Apr. 12, 1994).

be accomplished through a general Part 90 waiver policy permitting the license to be transferred to the PCS interest<sup>6</sup> and a clarification of the Emerging Technologies transition rules to require participation in cost sharing.

In order to prevent abuses or controversies, the Commission's cost sharing policies could include the following important qualifiers:

- No licensed or unlicensed PCS provider would be expected to participate in cost sharing unless and until its PCS operations would have caused interference to the microwave link prior to its relocation.
- No PCS provider would have to pay more than 50% of the actual documented costs incurred by the party relocating the link.
- In defining actual costs, "premiums" exceeding the costs of new microwave or alternative facilities and any "non-cash" benefits paid to the microwave licensee would not be counted.

UTAM submits that this approach, first brought to the Commission's attention by Columbia Spectrum,<sup>7</sup> would affirmatively serve the public interest in facilitating the efficient and timely relocation of microwave links.

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<sup>6</sup> UTAM anticipates that waivers will be necessary for certain eligibility and other requirements of 47 C.F.R. Part 90.

<sup>7</sup> Ex Parte Filing, GEN Docket No. 90-314, from Columbia Spectrum Management (Jan. 12, 1994).

**II. CONCLUSION**

For the foregoing reasons, UTAM urges the Commission to adopt the policies set out above to provide for the mutually beneficial sharing of microwave relocation costs by PCS licensees and unlicensed PCS interests.

Respectfully submitted,

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